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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,810	03/23/2004	David I. Suda	D0932-00444	2913
8933	7590	09/05/2006	EXAMINER	
DUANE MORRIS, LLP IP DEPARTMENT 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103-4196			YAO, SAMCHUAN CUA	
			ART UNIT	PAPER NUMBER
			1733	

DATE MAILED: 09/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/806,810

Applicant(s)

SUDA ET AL.

Examiner

Sam Chuan C. Yao

Art Unit

1733

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 August 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 1,3-6,8,9,12,15,16,36 and 41-51.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see the attached Examiner's response.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.


Sam Chuan C. Yao
Primary Examiner
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Examiner's Response

On pages 3-6, Counsel has cited several passages to cite support to the presently claimed subject matters and argued that the original disclosure as a whole shows possession of the presently claimed subject matter. Examiner disagrees. Nowhere in the whole disclosure teaches using the same material for a nonwoven tissue layer (13) and a reinforcing web (24). In fact, throughout the original disclosure, different reference numbers are conspicuously used for the nonwoven tissue layer and the reinforcing web. Moreover, nowhere in the whole disclosure which remotely discloses that the nonwoven tissue layer is used as a reinforcing layer; nor does the original disclosure teaches that the reinforcing web uses a tissue web for the covering web (13). While it is acknowledged that the reinforcing layer is a nonwoven web, it is a far cry from suggesting that this nonwoven web is a tissue web or uses the same material, which is used for covering layer 13. While it is also acknowledged that Applicant has in possession for using a reinforcing web as a covering layer, it does not necessarily indicate that the reinforcing web (24) has the same material as covering web (13). In fact, in an embodiment illustrated in (for example) figure 1, it illustrates a batt comprising a 1st covering layer (13) and a 2nd covering layer (17); wherein the materials used for these two layers are completely different. The 1st covering layer (13) comprises a nonwoven web, while the 2nd covering layer comprises a bituminous coated vapor retarding Kraft paper.

On page 5 last two lines to page 6, Counsel indicated that "... Applicants do not believe that the examiner has rejected Claims 49 and 50 on this basis". Counsel is incorrect.

See the heading in numbered paragraph 4 of the last office action where claims 49 and 50 were rejected under 35 USC 112 1st paragraph. However, in light of Counsel's arguments, Examiner is withdrawing the rejection.

On page 7 full paragraph 1, Counsel argued that "... Meier takes three separate faced blankets 46 and aligns them in a stacked faced-to-faced relationship **within a wrapper or sleeve of film 50**, ..." (bold-face in original). However, the claims as presently recited requires only requires a batt **comprising** (an open transitional phrase) a pair of insulating layers and a "... prefabricated flexible reinforcing non-woven tissue layer comprising randomly oriented glass fibers disposed between and bonded directly to said insulation layers ...". A blanket of Meier et al illustrated in for example figure 4, 6 or 7 comprises a pair of resin-impregnated fiber-glass insulating batts (46) (col. 1 lines 6-68; col. 3 lines 23-59; col. 4 lines 65) and a porous non-woven facing web (38) between and bonded to the fiber-glass insulating batts; wherein the non-woven facing web comprises inorganic fibers with a flame retardant characteristic and further wherein non-woven web is "*strong, tear resistant and lightweight*" (col. 5 lines 15-38; claim 1). While it is acknowledged that the inorganic non-woven web is not characterized by Meier et al as a non-woven tissue as recited in claim 1, nonetheless the term (i.e. tissue) is taken to read on a non-woven web, because applicant fails to positively define this term, and this term is defined broadly in Webster's New Collegiate Dictionary 2nd edition as simply "*a web*". Moreover, while not explicitly disclosed, it is understood that the inorganic non-woven web in Meier et al is taken to comprise randomly oriented inorganic fibers. In any

event, such would have been obvious in the art, because air-laid inorganic fibers is an art recognized effective and convenient way for making air-permeable non-woven web. Meier et al does not teach using glass fibers for the non-woven web. However, it would have been obvious in the art to use fiber glass in forming the inorganic non-woven web suggested by Meier et al, because: a) it is desired in Meier et al to form an insulating blanket for aircraft, which has an improved "tensile strength" without impairing its insulating ability and without adding significantly to its cost or weight" (col. 1 lines 64-68); and b) glass fibers are relatively low cost inorganic fibers commonly known in the art for having a good flame retardant and thermal insulating characteristics and for providing an excellent strength to weight ratio to a finished non-woven web. For these reasons, contrary to Counsel's assertion, the reinforcing layer recited in the claims clearly embraces the nonwoven facing web (38) comprising randomly oriented glass fibers in a blanket suggested by Meier et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sam Chuan C. Yao whose telephone number is (571) 272-1224. The examiner can normally be reached on Monday-Friday with second Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Richard Crispino can be reached on (571) 272-1171. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Sam Chuan C. Yao
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Art Unit 1733

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08-29-06